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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/518,464	03/03/2000	Leonhard Feiler	HW/P-21988/A	7640

324            7590            12/19/2001

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EXAMINER	
SANDERS, KRIELLION ANTIONETTE	
ART UNIT	PAPER NUMBER

1714            9  
DATE MAILED: 12/19/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

MF-9

<b>Office Action Summary</b>	Application No. <b>09/518,464</b>	Applicant(s) <b>Feiler et al</b>
	Examiner <b>Kriellion Sanders</b>	Art Unit <b>1714</b>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1)  Responsive to communication(s) filed on Sep 25, 2001
- 2a)  This action is FINAL.      2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

#### Disposition of Claims

- 4)  Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above, claim(s) 3-15 is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 1 and 2 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claims 1-15 are subject to restriction and/or election requirement.

#### Application Papers

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved.
- 12)  The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

- 13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

- a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

- 15)  Notice of References Cited (PTO-892)
- 16)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2,3
- 18)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19)  Notice of Informal Patent Application (PTO-152)
- 20)  Other: \_\_\_\_\_

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**DETAILED ACTION**

1. Applicant's election with traverse of Group I, claims 1-4 and the species of example LXXXIV as set forth at page 60 in Paper No. 5 is acknowledged. The traversal is on the ground(s) that the inventions as set forth for restriction purposes each possess the benzofurano-2-one building block and are therefor linked by a single inventive idea. This is not found persuasive because Group VI and VII colorants possess functional groups which render them patentably distinct. Groups II, IV V and VII process claims are patentably distinct in that the product of Group I could have been made by a materially different process as is elaborated upon in the restriction requirement, pare no. 4.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 3-15 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention or species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 5.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1 and 2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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The claims are indefinite at the first sentence of the claims..."A compound of the formula A compound of the formula (1a), (1b) or (1c). Are formulae (1a), (1b) or (1c) intended to further define A? If so the claims should indicate this.

Rejections under 35 USC 102 and 103 are withdrawn in view of applicant's amendment..

5. Claims 3-15 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Applicant timely traversed the restriction (election) requirement in Paper No. 5.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to K. Sanders whose telephone number is (703) 308-2435.

ks

December 16, 2001



KRELLION A. SANDERS  
PRIMARY EXAMINER